

### **Remarks/Arguments**

Applicant has received and carefully reviewed the Office Action of the Examiner mailed April 22, 2008. Claims 20, 22, 24-26, 34-37 and 39-44 have been rejected. Claims 20, 34, 39, and 40 have been amended. Currently, claims 20, 22, 24-26, 34-37 and 39-44 remain pending. Favorable consideration of the following remarks is respectfully requested.

#### **Claim Rejections Under 35 U.S.C. §103**

In paragraph two of the Office Action, claims 20, 22, 25-26, 34-36, and 39-44 were rejected under 35 U.S.C. 103(a) as being unpatentable over *Ravenscroft et al.* (U.S. Patent 6,007,558) in view of *Vargas et al.* (U.S. Patent 6,419,681). After careful review, Applicant must respectfully traverse this rejection.

The Examiner argues that *Ravenscroft et al.* discloses the claimed device except for a weakened or reduced cross-sectional area being configured to fail, releasing the anchoring member from a stem portion. The Examiner further argues that the *Vargas et al.* reference overcomes the *Ravenscroft et al.* deficiencies by disclosing “[a] device comprising a plurality of struts each having a weakened region or reduced cross-sectional area (“frangible”) region 402 being configured to fail, before the plurality of struts fail, leading to separation from the device body of struts, or a means for releasing the anchoring member that releases the portion 406 from the portion 404 containing of the plurality of struts...” Applicant respectfully traverses the Examiner’s argument. However, in order to move prosecution along in this case, Applicant has amended claim 20 to recite the additional element that the struts include a weakened region directly coupling the anchoring member to the distal end region of at least some of the plurality of struts, wherein the weakened region is configured to fail releasing the anchoring member from the at least some of the plurality of struts.

Unlike independent claim 20, the *Vargas et al.* reference does not appear to teach nor suggest a weakened region directly coupling the anchoring member to the distal end region of at least some of the plurality of struts, wherein the weakened region is configured to fail releasing the anchoring member from the at least some of the plurality of struts. Instead, *Vargas et al.* appears to teach an anastomosis implant 404, wherein

said implant 404 (comprising struts 410 and barbs 408) separates from discard portion 406 when the frangible linkages 402 fracture. *Vargas et al.* describes in column 14 lines 11-31 how the frangible links 402 are directly connected to the axially extending members 420 and 424; and not directly connected to the struts as suggested by the Examiner. Consequently, the frangible links 402 described in *Vargas et al.* are not part of the implant's struts 410. In fact, the *Vargas et al.* disclosure suggests that rigidity between the struts 410 and the barbs 408 connections is essential for the proper deployment and functioning of the implant 404 (column 13, lines 47-63). For at least this reason, *Vargas et al.* does not overcome the deficiencies of *Ravenscroft et al.*

The Examiner also rejected claim 34 under 35 U.S.C. 103(a) as being unpatentable over *Ravenscroft et al.* in view of *Vargas et al.* Amended claim 34 recites a reduced cross-sectional area region defined in each of the struts immediately proximal of the anchoring member, wherein the reduced cross-sectional area region is configured to fail releasing the anchoring member from the distal end of each of the struts. *Ravenscroft et al.* does not appear to teach or suggest recites a reduced cross-sectional area region defined in each of the struts immediately proximal of the anchoring member. *Vargas et al.* does not overcome this deficiency. Thus, Applicant submits that claim 34 is patentable over the cited reference.

For reasons similar to those stated above, the Examiner rejected claim 39 as being unpatentable over *Ravenscroft et al.* in view of *Vargas et al.* Amended claim 39 recites a filtering device comprising arms including a reduced cross-section area region disposed between at least one of the arms and the rigid anchoring members. Applicant submits that claim 39 is in condition for allowance because neither *Ravenscroft et al.* nor *Vargas et al.* appear to teach or suggest a reduced cross-section area region disposed between at least one of the arms and the rigid anchoring members.

The Examiner also rejects claim 40 for reasons similar to those stated hereabove. Amended claim 40 now recites a reduced cross-sectional area region disposed between the arms and anchoring members configured to break releasing the anchoring members from the arms. Neither *Ravenscroft et al.* nor *Vargas et al.* appear to disclose a reduced cross-sectional area region disposed between the arms and anchoring members

configured to break releasing the anchoring members from the arms. Thus, claim 40 is patentable over the cited references.

Consequently, Applicant respectfully submits that independent claims 20, 34, 39, 40, and 43 are patentable over the cited references. Additionally, since claims 22, , 25, 26, 41, and 42 are dependant on claim 20, claims 35 and 36 are dependant on claim 34, and claims 44 is dependant on claim 43, and each dependent claim contains additional elements, Applicant believes these claims are also patentable over the cited art.

In paragraph three of the Office Action, claim 24 was rejected under 35 U.S.C. 103(a) as being unpatentable over *Ravenscroft et al.* in view of *Vargas et al.*, and further in view of *El-Nounou et al.* (U.S. Patent 5,242,746). After careful review, Applicant must respectfully traverse this rejection. For reasons similar to those set forth above, claim 24, which depends from claim 20, is believed to be patentable over *Ravenscroft et al.* in view of *Vargas et al.* and further in view of *El-Nounou et al.*

In paragraph four of the Office Action, claim 37 was rejected under 35 U.S.C. 103(a) as being unpatentable over *Ravenscroft et al.* in view of *Vargas et al.*, and further in view of *Ambrisco et al.* (U.S. Patent 6,007,557). After careful review, Applicant must respectfully traverse this rejection. For reasons similar to those set forth above, claim 37, which depends from claim 34 and included additional elements, is believed to be patentable over *Ravenscroft et al.* in view of *Vargas et al.* and further in view of *Ambrisco et al.*

### **Conclusion**

In view of the foregoing, all pending claims are believed to be in a condition for allowance. Reexamination and reconsideration are respectfully requested. Issuance of a Notice of Allowance in due course is anticipated. If a telephone conference might be of assistance, please contact the undersigned attorney at (612) 677-9050.

Date:

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Respectfully submitted,

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